

## CHAPTER XVIII.

### LOCAL FUNDS—TOLLS, FERRIES, &c.

Tolls under the name of Ráhadári were levied on most roads under the rule of the Mussulmans, and under the Marathas were, like most other dues, taken with great license and tyranny. They were more frequently of the nature of transit duties than tolls proper.

The law regulating the tolls of this Presidency is contained in Act XV. of 1864 and Bombay Acts III. of 1875 and V. of 1881, and that regulating ferries in Bombay Acts II. of 1868, and II. of 1878. Both tolls and ferries are usually farmed in this Presidency, and the farms are always given for the financial year.—*G. R. No. 3969, July 12, 1873.*

#### TOLLS.

1. **General principles.**—The levy of tolls on roads and bridges requires the most effectual precautions to prevent extortionate or oppressive conduct on the part of the toll-collectors, and the most careful selection of the points at which the tolls are to be levied, so as to give ready access for redress against petty exactions to some near European authority.—*Court of Directors, June 29 1853.*

(2) Tolls are to be levied on roads on which Government is incurring expenditure, and where they have been made fit for wheeled vehicles, not having been so before.

Under ordinary circumstances toll-bars on the same road should be a day's journey apart—that is, an average of twenty miles.—*G. R. No. 1223, July 5, 1864.*

(3) Tolls should not be levied at the same Government toll-bar oftener than once a day for the same animals.—*G. R. No. 1059, April 13, 1858.*

2. **Toll-bars.**—Collectors are not to alter the sites of toll-bars without the sanction of the Commissioner.—*G. R. No. 4, Jan. 2, 1872.*

3. **Toll farms.**—Care should be taken to give Collectors timely notice of any public works likely to affect the sale of toll farms.—*G. R. No. 356—M. W. 1868, Sept. 28, 1872.*

Care should be taken to guard against the abuses to which the power of seizing property granted to the lessee of tolls and his employés is liable.—*G. R. No. 7234, Nov. 30, 1881.*

Under Section 3 of Bombay Act III. of 1875, Local Fund Committees should be appointed to manage the collection of tolls and the Mámlatdárs or Mahálkaris to superintend the collection within their jurisdiction.—*G. R. No. 2043, March 28, 1882.* —

4. **Exemptions.**—Exemptions published under Sec. 5 of the Tolls Act in addition to the exemptions made by that Section—

(1) Military officers and camp followers, carts, cattle, &c., when moving under the orders of competent Military authority. Animals belonging to the Government Cattle Farm.

(2) His Excellency the Governor-General and His Excellency the Governor, with their camps.

(3) Foreign Rulers or Native Chiefs and their followers or retainers; also other natives of distinction whom Government, the Commissioner, or the Collector, may see fit for special reasons to exempt.

(4) Grass-cutters attached to Cavalry or Artillery Regiments.

(5) Cultivators, wood-cutters, grass-cutters and the like, who have daily or constantly to pass the toll on their way to their daily occupation (*the precise terms of this exemption will be left to the decision of the Collector*).

(6) Carts containing public treasure, with their escorts and luggage.

(7) Carts whether belonging to a contractor or to Government actually employed in the conveyance of material for the construction or repair of public works, constructed or maintained by imperial, provincial, or local funds.

In other cases when a toll is passed by carts, &c., hired for, or in use on the public service, the toll is to be paid and the sum recovered by a contingent bill. For instance, a Collector will pay toll for the whole of the carts containing his own luggage and the Government records and tents, recovering the toll on account of the latter by a contingent bill.—*G. R. No. 1491, March 7, 1876, and No. 5213, Aug. 4, 1882.*

(8) Peons of all departments wearing their belts.

5. In all cases, tongas, horses and vans actually carrying Her Majesty's mails are to be considered exempt from toll. Also Overseers of mail lines when travelling on duty, and led ponies employed in the mail service and empty mail tongas.—*G. R. No. 2006, March 29, No. 2520, April 26, 1876, and No. 649, Feb. 7, 1878.*

6. Officers and subordinates of the Public Works Department are exempt from the payment of tolls, while on duty on the roads under their charge, and on which they are actually engaged in supervising repairs.—*G. R. No. 3875, July 5, 1876.*

7. Neither the Executive Engineer nor any one of his subordinates is, when travelling along the road for any other purpose save the express object of supervising repairs of that road, entitled to exemption from payment of tolls.

The exemption should extend to the Executive Engineer's horse or carriage, but not to the carts conveying his kit.—*G. R. No. 2072, April 22, 1878.*

8. Foresters and Forest Inspectors are also exempt, when travelling on duty.—*G. R. No. 1477, March 7, 1877.*

9. Any officers who may be exempted from the payment of tolls, the exemptions having been granted after the contracts have been sold and accepted by contractors, should pay the fees and recover the amounts by means of contingent bills.—*G. R. No. 4296, July 27, 1876.*

10. In the case of Military Officers not in uniform, drivers with or without Government cattle, and some followers who may not be known to the Toll Clerks, it is desirable to issue a certificate under the signature of the Staff Officer of the Station or Departmental Officer concerned, which would ensure the individuals referred to being exempt.—*G. R. No. 6875, Dec. 30, 1874.*

11. No officer who draws travelling allowance, whether by distance or time, is allowed to charge Government for tolls.—*G. of I. No. 3116, Sept. 28, 1872.*

A Pension Paymaster, when moving through his circle for the purpose of paying pensioners, may be exempted.—*G. R. No. 3538, July 13, 1878.*

Abkari Inspectors and their subordinates are exempted from payment of tolls when travelling on duty.—*G. R. No. 709, Feb. 10, 1880.*

Section 143 of the Army Act, 1881, exempts officers, soldiers, their horses, &c., on duty or on the march, from payment of duties or tolls at piers, wharves, turnpikes, bridges, &c. This section applies only where there is a public right of way and such right of way has been rendered subject to the payment of toll by a legislative enactment or some direction of the nature of a legislative enactment. The section in question cannot be held to apply to a bridge, road, wharf or quay, &c., constructed under such circumstances that the owner of it may open or close it to the public at his own will and pleasure.

2. The question whether any particular bridge, road, &c., falls under the provisions of Section 143 of the Army Act, 1881, must, as it arises, be decided with reference to the facts of each case.—*G. of I. No. 25-1071, July 19, 1882.*

The exemption from payment of tolls is limited to the officials named and their actual conveyance, and should not extend to their camp equipage and personal baggage.

The exemption is only to extend to the one horse on which the officer may happen to be riding.—*G. R. No. 2183, Sept. 15, 1859.*

12. Carts employed in the conveyance of material for Imperial, Provincial or Local Fund Public Works should be exempt from payment of the toll fee whether they are empty or laden when they pass the toll-bar.—*G. R. No. 6946, Oct. 6, 1882, R. D.*

13. **Repairs to Toll-houses.**—Tolls on provincial roads are collected by Civil officers, but repairs to the toll-houses are executed by the Executive Engineer or Collector according to convenience, and debited to provincial road repairs.—*G. R. No. 2684—1664, July 9, 1873.*

14. When toll contracts are let it should be expressly stipulated that the contractors are to provide and maintain such toll-house as may be required, existing ones being made over to them for maintenance.—*G. R. No. 584, C. IV.—1437, Aug. 11, 1875.*

NOTE.—For special rules as to Municipal tolls, see Chapter XIX., order 35, &c.

#### FERRIES.

15. **Government rights.**—Government will act upon its unquestionable right of establishing ferries in places where there are at present private ferries, if the proprietors or managers of the latter do not properly provide for the public requirements.

Ferries are as a general rule, and whenever practicable, to be farmed, under proper stipulations and conditions.—*Notif. Aug. 5, 1871.*

**16. Ferry districts.**—Under Sec. 16, Cl. 2, Bombay Act II. of 1868, the limits of each district for the purposes of the Bombay Ferries Act are co-extensive with the several collectorates.

When a ferry is partly in one district and partly in another, the proceeds shall in all cases after deducting the cost of maintenance, be divided equally between the two districts, the expenses, and the loss if any, being also jointly shared.—*G. R. No. 1984, Aug. 18, and No. 2340, Oct. 6, 1869.*

### 17. Tolls to be levied at Ferries, &c.—

All ferries in the Bombay Presidency shall be divided into classes, and the rates of toll leviable at each class of ferry shall be as follows:—

Large tidal ferries, which the same boat will not work across both ways more than twice in the day, are to be treated as special cases; other ferries may be classed as follows:—

*Class 1.*—Ferries where the same boat cannot go and return more than six times in a day of fourteen hours.

*Class 2.*—Ferries, where the same boat will cross and recross from seven to ten times;

*Class 3.*—Those where it will cross and recross from eleven to fifteen times.

*Class 4.*—Those where it will do so more than fifteen times.

*N.B.*—This classification of ferries according to the number of times which a boat can cross is not to be *strictly* adhered to

The rates to be levied at special ferries shall be fixed by the Collector with the sanction of Government;—*Govt. Notif. Aug. 5, 1870.*

[The table of fares for classified ferries will be found in Appendix I.]

**18. Powers under the Act.**—Collectors have the general control of the public ferries in their districts, under the orders of Government and subject to the general control of the Commissioner.—*Notif. Aug. 5, 1878.*

**19. Powers.**—All existing ferries within the limits of the Presidency of Bombay which have been declared to be public ferries

under the provisions of any law heretofore in force are deemed to be public ferries under Act II. of 1868.

Under Sec. 17 of the said Act the following powers are delegated:—

(I.) *To Revenue Commissioners.*

(1) Under Sec. 5, to lease any public ferry by public auction or by private contract for a period not exceeding seven years.

(2) To approve and modify rules made under Sec. 12.

(II.) *To Collectors.*

(1) Under Sec. 4, to provide for the appointment of Toll-keepers, Ferry-men, and other servants, for the management and conduct of the public ferries within their districts.

(2) Under Sec. 5, to confirm all existing leases of public ferries for the remaining period of the leases, provided such period do not exceed seven years.

(3) To lease any public ferry by public auction or by private contract for a period not exceeding one year.

(4) To approve of regulations made by farmers under Sec. 6.

(5) To determine the number of boats and men to be kept up at each ferry, and the dates on which instalments shall be paid, which are to be included among the conditions of the lease under Sec. 5 of the Act.—*Notif. Dec. 16, 1868, Aug. 11, 1869, and Aug. 5, 1870.*

20. **Conditions of leases.**—The conditions which, under Sec. 5 of the Act, are to be inserted in leases of public ferries are—

(a) The contract shall not be sublet without the express sanction of the Collector, given in writing.

(b) The amount of the contract shall be paid in monthly instalments, on dates fixed by the Collector, and inserted in the contract.

(c) Satisfactory security shall be given for the punctual payment of the amount of the contract, and of interest at one per cent. per mensem on all arrears.

(d) The contract may be cancelled for failure on the contractor's part to observe any of its terms, and the contractor and his securities shall be answerable for any loss which may be caused by its re-sale, and the direct management of the ferry for the period which remained for it to run.

(e) The Collector may make all necessary additions or repairs to the contractor's boats or baskets on the latter failing to do so for

five days after being required in writing, the cost to be defrayed by the contractor and recovered from him as a revenue demand.

(f) A certain number of boats and men, to be fixed by the Collector, shall be maintained during the period of the contract.

(g) Any other conditions consistent with the provisions of the Act may be specially sanctioned by the Commissioner, to whom power is delegated under Sec. 17 of the Act.—*Notif. Aug. 5, 1870.*

**21. Exemptions.**—The following persons are exempted from payment of ferry tolls, besides those exempted in Sec. 3 of Act III. of 1868.

1. All officers and soldiers of Her Majesty's regular forces on duty or on the march, and their horses and baggage; and all prisoners under military escort; and all carriages and horses belonging to Her Majesty or employed in Her military service, when conveying any such persons or baggage or stores, or returning from conveying the same. •
2. All camp followers, carts, cattle, &c., when moving under the orders of competent military authority. Animals belonging to the Government Cattle Farm.
3. His Excellency the Governor General and His Excellency the Governor with their camps.
4. Foreign rulers or native chiefs and their followers or retainers; also other natives of distinction whom Government, the Commissioner or the Collector, may see fit for special reasons to exempt.
5. Grass-cutters attached to Cavalry or Artillery Regiments.
6. Cultivators, wood-cutters, grass-cutters, and the like, who have daily or constantly to cross the ferry on their way to their daily occupation (*the precise terms of this exemption will be left to the decision of the Collector*).
7. Carts containing public treasure, with their escorts and baggage.
8. Carts actually employed in the conveyance of material for the construction or repair of public works, constructed or maintained by Imperial, Provincial, or Local Funds.

In other cases when a ferry is crossed by carts, &c., hired for, or in use on, the public service, the toll is to be paid and the sum recovered by a contingent bill. For instance, a Collector will pay toll for the whole of the carts containing his own baggage and the Government records and tents, recovering the toll on account of the latter by a contingent bill.

9. Peons of all departments wearing their belts.
10. Mail carts, tongas, horses, vans actually carrying Her Majesty's mails; led ponies employed in the mail service, and empty mail tongas (*i.e.*, red mail carts) on all mail tonga lines.
11. All military and public stores, and goods belonging to the Public Works and Local Funds Department, Treasury and Official Records.
12. All village and district officers, and all officers belonging to any of the departments under Government when actually travelling on duty, and who have been exempted under Section 5 of the Tolls Act, 1875; and all Public Works and Local Fund maistries, mustering kárkúns, post-runners, mukádams, and peons, when provided with a pass showing that they are *boná fide* employed in these departments.
13. All young children in arms.

Provided that in the case of any of the officers above mentioned whose exemptions have been granted after the existing ferry contracts have been sold and accepted by contractors, the exemptions shall be deemed to come in force on the expiry of the present contracts :

Provided also that the exemption from payment of ferry tolls in the case of Government officers is limited to the officials above mentioned and their actual conveyance, and does not extend to their camp equipage and personal baggage. The exemption is only to extend to the one horse on which the officer may happen to be riding.—*Govt. Notif. No. 1582, May, 2, 1882.*

22. The exemptions granted from tolls apply also to ferries under direct Government management.—*G. R. No. 1622, July 8, 1869.*

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The same rule is to apply to tolls on roads.—*G. R. No. 2183, Sept. 15, 1869.*

23. The exemption of children going to school is left to the Local Fund Committee.—*G. R. No. 6875, Dec. 30, 1874.*

Government Resolution No. 570, dated 29th January 1877, simply exempted Foresters and Forest Inspectors when actually engaged on their duties, and it is not intended that office karkuns should claim exemption under this ruling.—*G. R. No. 3417, July 6, 1878.*

24. **Ferries managed by Government.**—When the ferries are managed by Government direct, the boats which do not ply during the hot season should be cadjanned over before the 15th of November of each year. The tindals or lascars kept up in the dry season should be held responsible that these cadjans are kept effective until the next rains, and all sails, ropes, oars, and appurtenances should be placed in store; subordinates should be fined for neglecting to pay proper attention to the cadjan roofs, on report to this effect from the Executive Engineer's Department.—*G. R. No. 2555, Aug. 4, 1849.*

#### POUNDS.

[The law as to Pounds is found in Act I. of 1871.]

25. **Powers.**—The general control over pounds vested in Government by Sec. 4 of the Act is delegated to the Commissioners, except the power to dispose of surplus proceeds which are to go to Local Funds.—*G. R. No. 3533, Aug. 10, 1872.*

26. **Accounts.**—Gross receipts from pounds are to be credited, and all disbursements debited to the pound fund, according to the general rule of Local Fund accounts.—*G. R. No. 1725, April 22, 1872.*

#### 27. Rules for the Management of Pounds—

(1) Under Act I. of 1871, the Police Patel is keeper of the pound in his village, and is answerable for the proper carrying out of the Act. Where there is no Police Patel a special Pound-keeper will be appointed by the District Magistrate.

(2) The forms necessary for carrying on the duties of Pound-keeper will be furnished on indents submitted through the Mámlat-dár of the taluka.

(3) Printed lists of fines under Section 12 of the Act will be furnished on application to Mámlatdárs. The Pound-keeper shall post up lists of these and of the sanctioned feeding lists in a conspicuous part of the pound and of each village.

(4) As every Pound-keeper is bound to feed and water all impounded animals until they are delivered to the owners or otherwise disposed of, he may, where it is necessary, be allowed an advance not exceeding Rs. 10 from the Pound Fund. Such advances shall be adjusted yearly. When a Pound-keeper delivers over charge of his office, he and his successors shall jointly report to the Mámlatdár their having delivered over and received charge of the advance.

(5) The feeding charges of the impounded cattle shall not exceed the rates sanctioned by the District Magistrate.

(6) All fines collected by the Pound-keeper shall be retained in his custody, and when these amount to, or exceed, Rs. 10, he shall, subject to Rule 12, remit them to the Mámlatdar's Treasury, with a duplicate memorandum. On the 20th March of each year the Pound-keeper shall, with a similar memorandum, remit to the Mámlatdar's Treasury any balance in hand, however small it may be.

(7) The Officer in charge of the police station shall keep a register of all cases referred under Section 14 of the Act and a day-book.

(8) Under Section 14 of the Act, the District Magistrate is to nominate the Mámlatdár or Mahalkari and in his absence the Awal Karkun to conduct sales of cattle and to keep the accounts relative to such transactions.

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(10) The Mámlatdár shall then issue a notice, inviting claimants for the money in deposit on account of sales of unclaimed animals within three months from the date of the notice. At the end of three months, if no person should claim the money, it shall be carried to the credit of the Cattle-Pound Fund.

(11) If any claimant come forward within the time allowed, the Mámlatdár, after enquiry, and upon being satisfied that the claim is proved, shall, with the sanction of the District Magistrate, make over to such claimant the amount held in deposit.

(12) In the case of cattle pounds situated within the limits of any Municipality, the sums collected shall be credited to the Municipality, instead of to the Cattle-Pound Fund.

(13) The Assistant Collector in charge of the taluka should, as often as possible, examine all the registers and accounts kept by the Pound-keepers and by the Officers in charge of the Police Stations. The Mámlatdárs and Police Officers must, on their periodical tours, examine the registers kept by the Pound-keepers, and give the requisite instructions for their being correctly and neatly kept. The Mámlatdár shall further examine the registers kept by the Officer in charge of the police station.

(14) One-fourth of the monthly collections on account of the pound shall be appropriated to the Pound-keeper as his salary, and to enable him to keep the registers and furnish the returns required by Government; provided that in no case shall the annual salary of an *ex-officio* Pound-keeper exceed Rs. 72, or the annual salary of a person specially appointed Pound-keeper exceed Rs. 120.

(15) If the *ex-officio* Pound-keeper be unable to write, the Village Accountant shall keep the pound register and other documents, but the Pound-keeper shall attest these papers by his signature or mark. The Pound-keeper and the Village Accountant shall be jointly responsible for the correctness of all the papers. In such cases the Village Accountant shall receive one-half of the amount paid to the Pound-keeper out of the Pound-keeper's remuneration.

(16) The remuneration of the Pound-keeper shall be disbursed when the Potgi (or Patel's salary) is disbursed, *i. e.*, in January and July.

(17) In preparing bills, care should be taken that no Pound-keeper is allowed remuneration in excess of the maximum amount fixed by Government.—*G. R. No. 1584, May 14, 1864; No. 3, Jan. 2, 1876; No. 1161, April 12, 1877; No. 1653, May 24, 1878; and G. R. No. 3377, Nov. 6, 1878.*

The recovery of toll charges lawfully incurred in taking cattle which have been seized in the act of trespassing to the cattle-pound can properly be made under the provisions of Section 13 of Act I, of 1871, in addition to the fines and other legitimate charges incurred in respect of such cattle.

If the person seizing the cattle has paid any toll fees incurred, the Pound-keeper on recovering the amount from the owner should refund the same to such person.”—*Leg. Rem. with G. R. No. 5392, Aug. 11, 1882.*

## TRAVELLERS' BUNGALOWS.

28. **Charges and receipts.**—The construction of staging bungalows is included in the original cost of the road and charged for accordingly, *i. e.*, those on Imperial lines are paid for out of imperial revenue, but the maintenance and repair of all staging bungalows are chargeable to local funds where these receive the tolls, and should be provided for, as far as possible, from receipts. If these are not sufficient, they must be supplemented by grants from the Toll Fund.—*G. R. No. 4422, Nov. 29, 1866.*

29. All charges connected with toll-houses and travellers' bungalows on provincial roads, of which the toll proceeds are credited to provincial revenues, should be debited to those proceeds, and in that case the buildings, establishment, and repairs are all under the Executive Engineer.—*G. R. No. 101 A—185, April 29, 1873, and 268A—1864, July 9, 1873.*

30. It would not be expedient to amalgamate the Toll Fund and Bungalow Fee Fund. The receipts from the several bungalows should always be kept separate. Charges on account of maintenance of establishments only should be met from current receipts, and those on account of repairs should be regularly budgeted for. By this it will be seen that the charge on account of repairs will not be a first one on the Road Toll Fund.—*G. R. No. 456, Feb. 5, 1867.*

31. It cannot be expected that staging bungalows should be a source of profit. Their establishments and maintenance must be regarded as liabilities of the locality in which they are situated, as the construction and maintenance of dhurrumsalas for Native travellers are. Local Funds Committees can, if they please, execute the repairs of these bungalows without the intervention of the Public Works Department.

As the cost of maintenance devolves on the Local Funds, the Committees may, if they please, raise the fees; but if they charge too high the bungalows will probably not be used at all, and complications of the scales of fees should be avoided.—*G. R. No. 145, Aug. 30, and No. 5141, Oct. 16, 1871.*

When the charges for maintenance and receipts of a travellers' bungalow are entered in the Provincial Budget, Government Resolution No. 2270, dated 2nd July 1879,\* should apply, crockery and glass being regarded as ordinary articles of furniture.

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\* *Vide* Chapter I., page 32.

2.—When the maintenance and receipts of a travellers' bungalow are entered in the Local Fund Budgets, the charges on their account may be sanctioned by the Commissioners with proper budget provision.—*G. R. No. 3765, Oct. 11, 1881.*

#### DISTRICT BUNGALOWS.

[District bungalows which are not primarily intended for the use of travellers do not come under Local Funds, but as in many cases the distinction between them and travellers' bungalows is not very plain, it is convenient to give the rules here.]

32. For district bungalows no charge is made to Government officials. The Assistant or Deputy Collector in charge of the taluka has a preferential right to occupy them. Persons not in the Government service pay a rupee a day after seven days' occupation free, and a charge of two annas a day is made to all who occupy them for the services of a sweeper, unless they have their own with them. The charges for these bungalows are debited to Land Revenue, but repairs costing over Rs. 1,000 are made by Executive Engineers and debited to Public Works.—*G. R. No. 1814, March 29, No. 2670, May 10, 1873, and No. 233 A—1423 and No. 393, June 10, 1873, C. W. 1045, June 10, 1876.*

#### DHARAMSALAS.

[Dharamsalas on roads are Local Fund buildings, but are often built at the expense of charitably-disposed persons.]

33. **Grants of land.**—As cases have occurred in which persons have obtained land gratis for dharamsalas, and after a few years have converted the dharamsalas into private dwellings, a form of Sanad is now granted when land is given for this purpose providing against any such abuse, and this form is always to be used.—*G. R. No. 1793, March 19, 1877.*

34. **Grants of land.**—Land is granted free for dharamsalas near railway stations, if the dharamsala is to remain in the charge of the Local Fund Committee.—*G. R. No. 4075, Nov. 3, 1867.*

35. **Repairs.**—Fees are not charged to natives for the use of dharamsalas, and they should not be repaired out of the proceeds of tolls, but should remain, as heretofore, Local Funds buildings.—*G. R. No. 268A—1664, July 9, 1873.*

## CHOWREES.

[Chowrees were for some years entirely under the Local Funds, but Government now makes a grant of Rs. 24,000 a year from provincial funds, which is divided among all the collectorates except those of the Konkan and Kanara, where there are no Chowrees. Grants are also made for the purpose from Local Funds.]

36. **Grants** —The allotments are to be at the disposal of the Collectors to be spent at their discretion by themselves and their Assistants, in aid of village contributions, (which may, if necessary, be supplemented by grants from Local Funds,) on the construction and repair of chowrees. The grant for construction is to be limited to Rs. 200, and for repairs to Rs. 75 in each case. Collectors may allot a certain sum to each taluka or to each of their Assistants, but should themselves regulate the total expenditure in the district, so that the total grant may not be exceeded.

It may probably be found advisable after a short experience to increase the allotment in some districts where the needs are greatest, and reduce it in others where money is not so much needed. Nor can Government engage to maintain an annual grant for ever, as circumstances of great financial pressure might occur, rendering its withdrawal for a time imperative. Saving these two contingencies, however, it is the wish and intention of Government to continue the aggregate grant now made, regularly and always; and as far as can be seen at present, Collectors may rely on receiving their allotments annually, and need entertain no fear that they are liable to be withdrawn unexpectedly.—*G. & R. No. 2112, April 24, 1874.*